

**TRANSLATION**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>P0315202</b>	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. <b>PCT/JP2005/000202</b>	International filing date ( <i>day/month/year</i> ) <b>11.01.2005</b>	Priority date ( <i>day/month/year</i> ) <b>16.01.2004</b>
International Patent Classification (IPC) or national classification and IPC <b>A61K31/095, A61B3/10, A61K49/00, A61P27/02 // G01N33/487</b>		
Applicant <b>House Foods Corporation</b>		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> ( <i>sent to the applicant and to the International Bureau</i> ) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> ( <i>sent to the International Bureau only</i> ) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the drawings:
- sheets \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-10, 14</u>	YES
	Claims	<u>11-13</u>	NO
Inventive step (IS)	Claims	<u>1-10</u>	YES
	Claims	<u>11-14</u>	NO
Industrial applicability (IA)	Claims	<u>1-14</u>	YES
	Claims	<u></u>	NO
2. Citations and explanations (Rule 70.7)			
<p>Document 1: JP 10-295373 A (House Foods Corp.), 10 November 1998</p> <p>Document 2: WO 02/20808 A1 (House Foods Corp.), 14 March 2002</p> <p>Document 3: JP 2003-190249 A (Lion Corp.), 08 July 2003</p> <p>Document 4: The Journal of the Eye, 1991, Vol. 8, No. 7, pages 1021 to 1027</p> <p>Document 5: JP 11-267102 A (Kowa Co., Ltd.), 05 October 1999</p> <p>[1] The inventions set forth in claims 11 to 13 lack novelty in the light of documents 1 and 2 cited in the international search report.</p> <p>Document 1 indicates that the lacrimatory component of onions is effective in the treatment of dry eyes (paragraph [0026]), and also indicates that the lacrimatory component in question is thiopropanal S-oxide (paragraph [0002]).</p> <p>Such being the case, the inventions set forth in claims 11 to 13 are the same as the invention disclosed in document 1.</p> <p>Likewise, document 2 indicates that that the lacrimatory component of onions is effective in the</p>			

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treatment of dry eyes (page 3, lines 1 to 2), and also indicates that the lacrimatory component in question is thiopropanal S-oxide (page 1, line 10).

Such being the case, the inventions set forth in claims 11 to 13 are the same as the invention disclosed in document 2.

[2] The invention set forth in claim 14 does not involve an inventive step in the light of documents 1 to 3 cited in the international search report.

Documents 1 and 2 do not mention configuring a kit from the abovementioned therapeutic agent against dry eyes and an exposure container for exposing an eye to said therapeutic agent.

However, document 3 discloses an implement for treating dry eyes, wherein a therapeutic agent against dry eyes is included within an exposure cup for exposing an eye to said therapeutic agent. Such being the case, it would have been easy for a person skilled in the art to conceive of configuring a kit from an exposure container and the therapeutic agent against dry eyes which is disclosed in document 1 or document 2.

[3] The inventions set forth in claims 1 to 10 are not disclosed in any of the documents that are cited in the international search report; therefore, the inventions in question are novel and involve an inventive step.

The diagnostic lacrimal secretion reagents set forth in claims 1 to 10, which comprise an S-oxide compound as an effective component, are not disclosed in any of the abovementioned documents. Furthermore, it would not have been easy for a person skilled in the art

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

to conceive of the reagents in question in the light of  
any of the abovementioned documents.